

Decision 06-06-027 June 15, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Joint Application of Integra Telecom Holdings,  
Inc. and Electric Lightwave, LLC (U-5377-C) for  
Approval of a Transfer of Control of Electric  
Lightwave, LLC.

Application 06-03-009  
(Filed March 6, 2006)

**OPINION AUTHORIZING TRANSFER OF CONTROL OF ELECTRIC  
LIGHTWAVE, LLC (U-5377-C) TO INTEGRA TELECOM HOLDINGS, INC.**

**Summary**

This decision grants the application of Integra Telecom Holdings, Inc. (Integra) and Electric Lightwave, LLC (EL) (together, "Applicants") for approval of a transaction in which Integra will acquire direct control of EL, pursuant to Sections 852 and 854.<sup>1</sup> As a result of this transaction, Integra will acquire 100% of the ownership interests of EL, and EL will become a direct, wholly-owned subsidiary of Integra.

**Parties to the Transaction**

EL is a Delaware limited liability company organized under the laws of Delaware. EL's principal place of business is located at Vancouver, Washington. EL's sole owner is CU Capital LLC (CU Capital), a Delaware limited liability company, whose sole owner is Citizens Communications Company, a

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<sup>1</sup> All Code references are to the Public Utilities Code, unless otherwise stated.

Delaware corporation.

EL currently holds a certificate of public convenience and necessity (CPCN) authorizing the provision of resold and limited facilities-based local exchange and interexchange services in this state.<sup>2</sup> EL provides telecommunications services primarily in the Sacramento area and serves approximately 620 carrier, enterprise and business customers in California. According to the application, EL is authorized to provide telecommunications services in every state.

Integra is an Oregon corporation. Integra's principal place of business is located at Portland, Oregon. According to the application, Integra is a facilities-based provider and provides telecommunications services, including long distance, local phone service, and high-speed internet access to business customers in Minnesota, North Dakota, Oregon, Utah and Washington. Integra also provides long distance service to customers in Montana and Wisconsin. The application states that Integra's subsidiaries are also authorized to provide telecommunications services in Idaho, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wisconsin. Integra does not hold a CPCN authorizing the provision of telecommunications services in California.

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<sup>2</sup> In Decision (D.) 01-08-013 and D.96-02-072, we granted EL authority to provide resold and limited facilities-based local exchange and interexchange services. We also granted EL authority to provide resold and facilities-based intraLATA and interLATA telecommunications services in D.94-03-073 (high-speed private lines services) and D.95-09-115 (low-speed private line services and switched toll services).

### **Proposed Transaction**

Under this transaction, Integra will purchase from CU Capital all of the issued and outstanding ownership interests in EL and will thereby become the sole controlling owner of EL. Therefore, EL will become a wholly-owned subsidiary of Integra.

EL will continue to hold its CPCN and to provide telecommunications services in California.

Applicants represent that this change in ownership will benefit EL and its customers, because it will give EL access to Integra's financial resources and management experience in the telecommunications field, as well as to Integra's advanced network capabilities and technical strengths. Applicants claim that this transaction will therefore enable EL to continue to offer innovative products and to further strengthen its competitive position in California.

Applicants further represent that the transaction will be transparent to customers. There will be no change in the name or management of EL because the transaction will be completed at the parent company level only. Customers will continue to receive service from EL under the same rates, terms, and conditions after the transaction is approved.

### **Discussion**

Under Section 852, no public utility, and no subsidiary, affiliate of, or corporation holding a controlling interest in, a public utility, shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under the laws of this state, without prior Commission authorization. Section 854 further requires Commission authorization before a company may "merge, acquire, or control . . . any public utility organized and doing business in this state . . . ". The purpose of these and related sections is to

enable the Commission, before any transfer of a public utility is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

In a situation in which a company that does not possess a CPCN desires to acquire control of a company that does possess a CPCN, we will apply the same requirements as in the case of an applicant seeking a CPCN to exercise the type of authority held by the company being acquired. Therefore, although Integra does not hold a CPCN to provide telecommunications services in California, it must meet the requirements for issuance of a CPCN because, as a result of this transaction, Integra is acquiring direct control of EL.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who desires to operate as a limited facilities-based and resale provider of local exchange and interexchange service must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs. In addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

The application includes financial statements and other evidence that demonstrates that Integra has sufficient resources to meet our financial requirements. Since EL is expected to continue to operate under the same day-to-day management, we find that our requirement for technical expertise is satisfied, for the purposes of this transaction only.<sup>3</sup> The transaction will give EL

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<sup>3</sup> We made no determination as to whether Integra would otherwise meet the technical and managerial requirements for authorization to provide telecommunications services in this state.

access to Integra's financial, technical and management resources. In addition, this transaction will be transparent to customers. Therefore, the proposed transaction is in the public interest.

Therefore, we will grant the application pursuant to Sections 852 and 854.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3169, dated March 15, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

### **Comments on Draft Decision**

This is an uncontested matter, in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

John A. Bohn is the Assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. EL is a limited liability company organized under the laws of Delaware.
2. Integra is an Oregon corporation that provides telecommunications services in other states through its subsidiaries.
3. In D.01-08-013 and D.96-02-072, we granted EL a CPCN authorizing the provision of limited facilities-based and resold local exchange and interexchange services in California.

4. As a result of this transaction, EL will become a wholly-owned subsidiary of Integra.

5. Integra does not hold a CPCN that authorizes it to provide telecommunications services in California.

6. There will be no change in the name or day-to-day management of EL as a result of the transaction.

7. EL's customers will continue to receive service under the same rates, terms, and conditions after the transaction.

8. Integra has sufficient financial resources to meet the Commission's requirements to provide limited facilities-based and resold local exchange and interexchange services.

9. This transaction will give EL access to the financial, technical, and management resources of Integra.

10. Since EL's day-to-day management will remain the same, Integra has met the requirements for technical and managerial expertise to provide telecommunications services, for the purposes of this transaction only.

11. Notice of this application appeared on the Commission's Daily Calendar on February 16, 2006.

12. There were no protests to this application.

13. No hearings are necessary.

### **Conclusions of Law**

1. The Commission will apply the same requirements to a request for approval of an agreement to acquire control of a limited facilities-based and resale provider of local exchange and interexchange telecommunications services within California as it does to an applicant for authority to provide such services.

2. Integra meets the Commission's requirements for the issuance of a CPCN to provide limited facilities-based and resold local exchange and interexchange telecommunications services, for the purposes of this transaction only.
3. This transaction is in the public interest.
4. In order to avoid delaying this transaction, the approval of the application should be made effective immediately.

## **O R D E R**

### **IT IS ORDERED** that:

1. Pursuant to Public Utilities Code Sections 852 and 854, the application of Integra Telecom Holdings, Inc. (Integra) and Electric Lightwave, LLC (EL) for approval of the transfer of control of EL to Integra is approved.
2. Application 06-03-009 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners